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APR 30 1935

Department of Water Resources

Minutes of April 1, 1935

WHEREUPON, a motion was duly made, seconded and adopted, that the Board adjourn until April 6th, 1935, at one o'clock P.M. to await the recommendation of the Department of Reclamation of the State of Idaho.

"SEAL"

ROY C. Pearson
President

ATTEST

George L. Ambrose
Secretary

MINUTES OF APRIL 1st.

Department of Reclamation,
State of Idaho,
Boise, Idaho.

(Exhibit "A")

Dear Sirs:

Proposed Plan of operations
Big Lost River Irrigation
District.

In accordance with the provisions of Section 4B-401 of the Idaho Code Annotated 1932, and the minutes of the Board of Directors of date April 3, 1934, wherein the undersigned was employed by said Board to prepare and formulate a general plan of proposed operations for the Big Lost River Irrigation District, Butte and Custer Counties, Idaho, and pursuant to the application for loan of said District filed with the Reconstruction Finance Corporation on or about October 15, 1934, which application has been approved in the amount of \$238,500.00, the following plan of operations in connection therewith is recommended by the undersigned Engineer of said District, and is herewith presented for consideration.

The official title of the loan application above referred to is "Application for Loan of Big Lost River Irrigation District, Butte and Custer Counties, Idaho, a Bulk-Liquidating Project, Under the Emergency Farm Mortgage Act of 1933, as Amended by H. J. Res. 365, June 16, 1934, 73rd Congress, Second Session," and submitted under date of October 8, 1934.

Under Section 1, Paragraph 5 of the above loan application, a full statement as to the purpose of this loan is as follows:

- (a) To purchase the holdings of the Utah Construction Company, a corporation, for the sum of \$175,000.00. These holdings include all storage, flood water and natural flow rights of said Company on Big Lost River and its tributaries, the Mackay Dam, which is the storage reservoir of the Company near Mackay, Idaho, the Company's Carey Act Project near Arco, Butte County, Idaho, the main diversion canal of the Company, known as the Blaine

Canal, and all other irrigation works and holdings of the Company in Butte and Custer Counties, Idaho. A detailed description of the property to be purchased and the terms of purchase are more particularly described in that certain option agreement, hereto attached, marked EXHIBIT "A", and made a part hereof.

- (b) To purchase certain privately owned lands within the aforesaid Carey Act Project of the said Utah Construction Company. These privately owned lands total 1864.83 acres and are more particularly described in SCHEDULE "B" of said option agreement, EXHIBIT "A", hereto attached. These privately owned lands can be purchased for the sum of \$59,450.00 under option agreements, which have been entered into between owners of said lands and the District. These agreements will be placed in the Butte County Bank, Arco, Idaho, and settlement will be made thru said Bank.

Additional information pertaining to the purpose is also quoted from SECTION IV of the application.

SECTION IV. ADDITIONAL INFORMATION REQUIRED WHEN LOAN IS FOR THE PURPOSE OF PURCHASING OR ACQUIRING ADDITIONAL PROPERTY AND WORKS.

1. Additional information as to purchasing or acquiring existing property or works.

- (a) Purpose of and necessity for the proposed purchase or acquisition.

- (1) The information herein requested is set forth in part in Paragraph 3 of SECTION I of this application. More fully stated, the purpose is to purchase, for a consideration of \$175,000.00 the natural flow rights on Big Lost River, aggregating 9.64 second feet, the flood waters and storage rights, canals, diversion works, and the storage dam of the Utah Construction Company, and in fact all of the property rights of the Company in Big Lost River Valley, which property is more particularly set forth in that certain Option Agreement, Exhibit "A", hereto attached, entered into between the Company and the Board of Directors of the Big Lost River Irrigation District. It is proposed under this application to purchase the holdings of the Utah Construction Company at a cost of \$175,000.00, which holdings will give the District approximately 89,163 acre feet of water annually for irrigation purposes, together with 9.64 second feet of natural flow rights out of Big Lost River. It is planned that by this District having the property in and control of the above amount of water, which will be used to furnish a supplemental water supply to lands in the District and now having an insufficient water supply, and the employment of a rotation system of water for irrigation purposes, and the storage of the natural flow rights, privately owned, at different times in the said Mackay Dam, the District will be enabled to save and conserve

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large amounts of water and make a successful project out of one that has heretofore been short of water. It is estimated by this proposed plan that approximately 20,000 acres of land can be furnished with a supplemental water supply, thus guaranteeing to the water users and land owners within the District through the use of storage waters which they have not heretofore had and water savings to be effected, as hereinafter stated, water to mature their crops each and every year.

- (b) The following is an itemized description of the property to be purchased under this set-up.
- (1) The Carey Act Project of the Utah Construction Company consisting of a segregation of 20,000 acres, described as the "First Unit", and which includes 6824.74 acres ~~owned~~ owned or controlled by the Company, the said 6,824.74 acres having been irrigated and supplied with water from the storage, flood and natural flow rights of the Company.
 - (2) Also 6,633.56 shares of the capital stock of the Gem State Water Company appurtenant to the above described lands as water rights, said stock including 760 shares for the private lands as shown in Schedule A of said Exhibit "A", and 1813.38 shares of additional water appurtenant to said lands.
 - (3) All the remaining 89,796.61 shares of the authorized capital stock - which is 100,000 shares - of the Gem State Water Company.
 - (4) The entire irrigation system of the Utah Construction Company, including all those certain water rights decreed to the Company in that certain water adjudication decree made by the District Court of the United States for the District of Idaho, Eastern Division, on or about March 15, 1923, in the case entitled "The Utah Construction Company, plaintiff, vs. John F. Abbott, et al., Defendants", in Equity No. 833; also the Mackay Dam and reservoir of said Company, and all other lands and their appurtenances, including reservoir lands, all water rights, rights of way, easements, privileges, canals, laterals, ditches, dams, flumes, headgates, weirs, and structures of every kind and nature belonging to the Company, and forming a part of said irrigation works and system.
 - (5) Said school lands in Sec. 16, Twp. 3 N. R. 26 E. B. M., and Sec. 36, Twp. 4 N. R. 26 E. B. M., Butte County, Idaho, under contract of purchase from the State of Idaho, such contracts of purchase being subject to the claims of the State of Idaho thereunder. The right to remove certain personal property from these lands is reserved in the said Option Agreement, Exhibit "A".
 - (6) What is referred to in the said Option Agreement, Exhibit "A", as "Kra Tract," lies west of Big Lost River.

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The Company reserves the right to remove certain crops, personal property and other improvements. What is also referred to as "Arco Tract," in said Option Agreement, Exhibit "A", lies on the east side of Big Lost River. The said Option Agreement reserves to the Company the right to remove crops and personal property from these lands, but not the improvements.

(c) Statement of expenditures that will be required, with itemized and detailed appraisals, etc.

(1) Although a statement of the expenditures required to be made under this proposed set-up is in paragraph (a) above, a list of such expenditures is as follows:

1. Purchase of all the holdings and property of the Utah Construction Company.....\$175,000.00
2. Purchase of private holdings on the Carey Act Project of the Company..... \$9,450.00
\$184,450.00

The full description of the properties, construction works and rights which are proposed to be acquired by purchase from the Utah Construction Company is set forth in Exhibit "A", Option Agreement, Page 40 of the Application, and herewith quoted as follows:-

"NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That in consideration of the sum of One Dollar (\$1.00) cash in hand paid by the District to the Company, the receipt of which is hereby acknowledged, and in further consideration of the efforts and expenditures of the District in raising the required funds to complete said purchase, the Company hereby gives and grants unto the District the right and option to purchase from it at any time between this date and the first day of April, 1938, for the sum of \$175,000.00 cash, all the Company's right, title and interest in and to the following described property:

(1) That certain Carey Act irrigation system above referred to, known as the Big Lost River Carey Act Project, subject, however, to the terms of that certain contract between the Company and the State of Idaho, dated February 14, 1916, together with all the Company's right, title, and interest in said state contract.

This option is intended to cover the Company's interest in said irrigation system in its entirety (subject only to the reservations herein set forth), said system including all those certain water rights deposited to the Company in that certain water adjudication decree made by the District Court of the United States for the District of Idaho, on or about March 15, 1923, in a case entitled "The Utah Construction Company, plaintiff vs. John P. Abbott, et al (In Equity No. 823); that certain dam and reservoir known as the Mackay Dam and Reservoir, of said project; and all other lands and their appurtenances, including reservoir lands, all water rights, rights of way, easements, privileges, canals, laterals, ditches, dams, flumes, headgates, weirs, and structures of every kind and nature belonging to the Company and forming a part of said irrigation works and system, but subject likewise to the burden and conditions under which said property, rights, franchises, and easements were constructed or have been acquired by the Company; but

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any conveyance to the District by the Company upon the exercise of this option shall by its terms bind the District to carry out and fulfill any obligations of the Company now remaining unfulfilled under the terms of said contract with the State of Idaho, to-wit: those covenants to be performed by the Company under the provisions of said state contract relating to the sale to landowners of water rights in said irrigation system and the operation and maintenance thereof, and finally the conveyance of said irrigation system to the Gem State Water Company. The Company hereby represents and warrants, however, that as above recited said irrigation project has been duly accepted by the Department of Reclamation of the State of Idaho as fully constructed and completed in accordance with the terms of said contract.

(2) Those certain lands listed in Schedule "A" hereto attached, being irrigated or irrigable from said project which are owned or controlled by the Company, comprising 8,884.74 acres, together with 8,838.56 shares of the capital stock of Gem State Water Company appurtenant to such lands as water rights.

(3) All the Company's interest in and lien upon the lands and 1,584.83 shares of water stock listed in Schedule "B" hereto attached (other than those parcels marked on said list "Paid in Full"), the Company's interest in the respective parcels of land and water stock (other than those marked "Paid in full") being the right to collect the balance of principal and interest owing to it on the purchase price of the respective parcels of water stock as shown on said Schedule "B", which balance of purchase price is secured by a lien on the respective parcels of land and water stock.

(4) All the remaining 89,796.61 shares of the authorized capital stock of said Gem State Water Company.

In case this option is exercised within the period limited therefor, then upon payment of the said purchase price of \$175,000.00 the Company will make quitclaim conveyance to the District of the said property as follows:

(a) The water rights and irrigation system aforesaid in their entirety; said conveyance to be made subject to the terms of said contract, and reciting therein that the District shall be bound by the terms of said conveyance to carry out the provisions of said state contract with respect to the sale of water rights to settlers and with respect to the ultimate conveyance of said project to said Gem State Water Company.

The Company reserves the right prior to or simultaneously with the conveyance of said property to the District to turn over the said irrigation system to the Gem State Water Company for operation, with the consent of the Commissioner of Reclamation of Idaho and the State Land Board, as provided in Paragraph 12 of said state contract; and the Company shall be under no obligation to convey said property to the District, notwithstanding the exercise of this option, until the said turning over has been accomplished with the consent of the officers aforesaid.

(b) Those certain lands listed in Schedule "A" hereto attached

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any conveyance to the District by the Company upon the exercise of this option shall by its terms bind the District to carry out and fulfill any obligations of the Company now remaining unfulfilled under the terms of said contract with the State of Idaho, to-wit: those covenants to be performed by the Company under the provisions of said state contract relating to the sale to landowners of water rights in said irrigation system and the operation and maintenance thereof, and finally the conveyance of said irrigation system to the Gem State Water Company. The Company hereby represents and warrants, however, that as above recited said irrigation project has been duly accepted by the Department of Reclamation of the State of Idaho as fully constructed and completed in accordance with the terms of said contract.

(3) Those certain lands listed in Schedule "A" hereto attached, being irrigated or irrigable from said project which are owned or controlled by the Company, comprising 6,824.74 acres, together with 8,638.56 shares of the capital stock of Gem State Water Company appurtenant to such lands as water rights.

(3) All the Company's interest in and lien upon the lands and 1,564.88 shares of water stock listed in Schedule "B" hereto attached (other than those parcels marked on said list "Paid in Full"), the Company's interest in the respective parcels of land and water stock (other than those marked "Paid in full") being the right to collect the balance of principal and interest owing to it on the purchase price of the respective parcels of water stock as shown on said Schedule "B", which balance of purchase price is secured by a lien on the respective parcels of land and water stock.

(4) All the remaining 89,796.61 shares of the authorized capital stock of said Gem State Water Company.

In case this option is exercised within the period limited therefor, then upon payment of the said purchase price of \$175,000.00 the Company will make quitclaim conveyance to the District of the said property as follows:

(a) The water rights and irrigation system aforesaid in their entirety; said conveyance to be made subject to the terms of said contract, and reciting therein that the District shall be bound by the terms of said conveyance to carry out the provisions of said state contract with respect to the sale of water rights to settlers and with respect to the ultimate conveyance of said project to said Gem State Water Company.

The Company reserves the right prior to or simultaneously with the conveyance of said property to the District to turn over the said irrigation system to the Gem State Water Company for operation, with the consent of the Commissioner of Reclamation of Idaho and the State Land Board, as provided in Paragraph 12 of said state contract; and the Company shall be under no obligation to convey said property to the District, notwithstanding the exercise of this option, until the said turning over has been accomplished with the consent of the officers aforesaid.

(b) Those certain lands listed in Schedule "A" hereto attached

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and made a part hereof, comprising 6,824.74 acres, together with 8,838.86 shares of the capital stock of Gem State Water Company appurtenant to such lands as water rights.

With respect to all the lands described in said list located on what is known as the "ERA Tract" of said project, in Townships 3 and 4 North, Ranges 25 and 26 East Boise Meridian (except the lands known as "school lands" in Section 16, Township 3 North, Range 26 East Boise Meridian and lands in Section 36, Township 4 North, Range 25 East Boise Meridian), the Company will reserve by the terms of said conveyance the right to remove the crops, personal property, and improvements, said improvements including buildings, fences, well machinery, and water pumping equipment.

The lands known as "school lands" embraced in Section 16, Township 3 North, Range 26 East Boise Meridian and in Section 36, Township 4 North, Range 25 East Boise Meridian are held by the Company under contracts of purchase with the State of Idaho, and the Company will assign to the District such contracts of purchase subject to unpaid balance due to the State of Idaho thereon, which unpaid balance the District shall by the terms of said assignments assume and agree to pay. Said assignments will reserve to the Company the right to remove the crops, personal property, and improvements on said "school lands", said improvements including buildings, fences, well machinery, and water pumping equipment.

With respect to the lands included in said Schedule "A" located on what is known as the "Arco Tract" of said project (situated in Township 3 North, Range 27 East Boise Meridian), the said conveyance will reserve to the Company the right to remove the crops and personal property on said lands, but not the improvements.

(c) The Company will assign to the District, without recourse, all the Company's interest in and lien upon the lands and water stock listed in Schedule "B" hereto attached, other than those parcels marked on said list "Paid in Full", and particularly those certain water contracts whereby the Company has heretofore sold to the owners of such land the water stock appurtenant thereto as a water right, including the right to collect the balance of principal and interest owing to it on the purchase price of the respective parcels of water stock according to the terms of the respective contracts under which such water stock was sold, such assignments carrying with them the right to enforce at the District's expense any right, remedy, or lien for the enforcement or collection of such unpaid balances.

(d) All the remaining 89,796.61 shares of the authorized capital stock of said Gem State Water Company.

In case the District shall not by April 1, 1935, by the sale of its bonds, or otherwise, have put itself in position to pay the purchase price of said property, then in case in the opinion of the Company substantial progress has been made by the District in securing the necessary funds, the Company will extend this option so as to permit said purchase to be consummated by the District on October 1, 1935, for said sum of \$175,000.00, plus interest thereon at the rate of 6% per annum from April 1, 1935.

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For the purpose of outlining this proposed plan of operations, only such properties and construction works above described will be considered. The plan of operations as proposed for the Big Lost River Irrigation District is as follows, to-wit:-

PROPOSED PLAN OF OPERATIONS

It is recommended that the Big Lost River Irrigation District acquire control of the above described properties and construction works owned by the Utah Construction Company, and also certain water rights appurtenant to privately owned lands within the said Carey Act Project of the Utah Construction Company, and if necessary to purchase the lands to which such water rights are appurtenant, by purchase in the manner outlined in the District's loan application and elsewhere, and it is recommended that said District thereafter proceed as follows:-

1. To retire from present production those lands now held by the Utah Construction Company and which are fully described in Schedule A, Exhibit "A" of the Application above referred to and situated on Carey Act Project tracts below Arco, Butte County, Idaho, and comprising approximately 6064.74 acres, and to so dispose of them as the Board of Directors of the Big Lost River Irrigation District may determine.
2. To retire from present production or dispose of, as the Board of Directors of the Big Lost River Irrigation District may determine, those lands privately owned and lying within the said Carey Act Project of the Utah Construction Company, comprising 1554.93 acres, and fully described in Schedule B, Exhibit "A" of the said loan application.
3. To abandon all canals and distributing systems now in use, or heretofore in use by the Utah Construction Company below that point on the Blaine Canal known as the Bifurcation Works, and which were used to serve the lands described above in Paragraphs 1 and 2, excepting such part of the Lower Blaine and the Arco Canal which will be necessary to use in serving the water users within the District under this plan in the vicinity of Arco.
4. To hold the main Blaine Canal and the Lower Blaine Canal in reserve for future service as may be required in times of high runoff to serve more efficiently lands in the west side of Big Lost River Valley in the vicinity of Moore and those being served from the Arco Canal and its tributaries in the vicinity of Arco. Also to act as a supplementary carrier to the regular system in use during such times as occasion may require. Also to use the said Blaine Canal as a collector of flood water issuing from the Antelope Creek Valley and to divert the same to the Moore West Side Canal System for more efficient application to lands adjacent to Moore.
5. To maintain and to use the Blaine Diversion Dam, at the head of the Blaine Canal, as now constructed, in such a manner as requirements may demand for the proper control of all water passing that point.
6. To maintain and to operate the Maskay Reservoir, the Dam and all control works in connection therewith for the storage of winter flow waters and excess flood waters beyond the requirements of the present decreed users in the said District below that point, and to

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exercise in connection therewith all the rights and privileges which are set forth in the description of rights and holdings being acquired from the Utah Construction Company.

7. To apply the said stored water, flood water and natural flow rights on Big Lost River and its tributaries, which may be acquired from the Utah Construction Company, and the private rights to be purchased, to such lands now owned by the landowners within the District in a manner and on such terms as may be determined by action of the Board of Directors of the Big Lost River Irrigation District.

BENEFITS

The benefits and advantages which are expected to accrue to the lands comprising the Big Lost River Irrigation District by operation and control of the above mentioned properties and works and rights are as follows:

1. All water stored in the manner above outlined in the Mackay Reservoir will be made available for an equitable distribution among the land owners in the Big Lost River Irrigation District, lying below the Mackay Dam and within the District proper. Heretofore such stored waters were delivered to the Carey Act Project lands under the control of the Utah Construction Company to the amount of an average of 30,163 acre feet annually for the past ten years. By abandonment of the lands to which this water was formerly applied, and diverted to the use of the land owners within the District, the existing water rights will be substantially augmented, and large quantities of water saved that would otherwise be lost in transmission.

2. Such application of stored water within the District above that section north and west of Leslie will be expected to do double duty to a large extent because of the fact that a material amount of return flow will be collected and again made available for use below Leslie.

3. The operation of the Mackay Reservoir under the control of the Big Lost River Irrigation District, will provide a definite control and regulation of the entire flow of the river at that point at all times, making it possible to prevent excessive loss through uncontrolled dissipation of flood water below that point, and will provide for the more efficient delivery and uniform control of delivery to the various canals supplying the lands of the settlers within the District.

4. The use and the control, under proper management, of the reservoir, the dam and the other construction works referred to elsewhere will make possible the operation of an efficient system of rotation among the users themselves, and thereby further increasing the duty of water and conserving the same.

5. The operation and control of all irrigation works and rights being acquired from the Utah Construction Company, and of the water rights privately owned, which are to be purchased, when used in conjunction with the existing system now owned by the land owners within the District, will provide for a concentrated application of all avail-

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able water from Big Lost River and principal tributaries within the District itself, with an anticipated result that as the underground water table will gradually be built up through such operation, that material benefits will accrue to each decreed user within the District.

FINDINGS.

1. I have carefully examined the Mackay Dam, Storage Reservoir, the main diversion canal known as the Blaine Canal, and all other irrigation works and holdings of the Utah Construction Company in Butte and Custer Counties, Idaho, and I find that the same are well constructed and of a capacity to supply the needs of the Big Lost River Irrigation District for an additional water supply. I have also examined and made determinations on the storage, flood water and natural flow rights on Big Lost River and its tributaries, belonging to the Utah Construction Company, and I find them ample to furnish a supplemental water supply to at least 20,000 acres of lands within the district. I consider the above described property worth a great deal more than the sum of \$175,000.00, the amount they can be purchased for by the District, under ~~the~~ its option.

2. I have also examined the Carey Act Project of the Utah Construction Company and the water rights appurtenant thereto and also the privately owned lands within said Carey Act Project of said Company, and the water rights appurtenant thereto and they are worth a great deal more than \$60,000.00, the amount which they can be purchased for by the District, and said water rights will furnish a valuable supplemental water supply to the District.

3. That the acquisition of the above property will afford a feasible and economic method of obtaining an additional water supply for lands within the District.

CONCLUSION

It is recommended that the Big Lost River Irrigation District adopt the following plan of operations, to-wit:-

(1) That the Big Lost River Irrigation District acquire by purchase for the sum of \$175,000.00 the storage, flood water and natural flow rights on Big Lost River and its tributaries, the Mackay Dam and Storage reservoir, the Carey Act Project and main diversion canal, known as the Blaine Canal, belonging to the Utah Construction Company, and all other irrigation works and holdings of said Company in Butte and Custer Counties, Idaho.

(2) That the Big Lost River Irrigation District acquire by purchase for the sum of approximately \$60,000.00, certain water rights appurtenant to privately owned lands within said Carey Act Project of the Utah Construction Company, and, if necessary, that it purchase those certain lands to which such water rights are appurtenant, if necessary to fully acquire said water rights.

Dated at Mackay, Idaho, this 30th day of March, 1935.

J. Ray Weber
Engineer Big Lost River Irrigation District.

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STATE OF IDAHO
COUNTY OF CUSTER

} ss.

J. Ray Weber, being first duly sworn, deposes and says that he is a duly qualified engineer of the State of Idaho, and that he has carefully prepared the foregoing proposed plan of operations for the Big Lost River Irrigation District, and he has recommended its adoption by the Board of Directors of said District; that the statements made in the foregoing proposed plan of operations are true and correct to the best of his knowledge and belief.

J. Ray Weber

Subscribed and sworn to before me this 30th day of March, 1935, at Mackay, Custer County, Idaho.

George L. Ambrose
Notary Public for the State of
Idaho, residing at Mackay, Idaho.
My commission expires October 16,
1936.

((SEAL))

Filed this 30th day of
March, 1935 in the office
of the Big Lost River
Irrigation District

George L. Ambrose
Secretary.